

**FILED**

FEB 26 2014

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

COMPLAINT BY PRISONER UNDER THE CIVIL RIGHTS ACT 42 U.S.C. 1983  
 Lenzo Seemster  
 H-64914, CDCR #  
 CSP-Sacramento, AI, PO Box 290066, Represd, CA. 95671

**(PR)**

UNITED STATES DISTRICT COURT  
 NORTHER DISTRICT OF CALIFORNIA

KAW

**CV 14 0862**

Lenzo Seemster

Plaintiff

VS.

Will Bathista in his official capacity

as correctional officer of:

Pelican Bay State Prison

California Department of Corrections (CDCR)

and in his individual capacity

Defendant

CASE NO.

COMPLAINT FOR DECLARATION  
 AND INJUNCTION RELIEF UNDER  
 THE CIVIL RIGHTS ACT 42 U.S.C.  
 § 1983 AND DAMAGES

**I. JURISDICTION & VENUE**

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation under color of state law, of rights secured by the Constitution of United States. The courts has jurisdiction under 28 U.S.C. Section 1331 and 1343(2)(3) Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff claims for injunctive relief are authorized by U.S.C. Section 2283 and 2284 and rule 65 of the Federal Rules of Civil Procedure.

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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF UNDER CIVIL RIGHTS ACT 1983 &amp; DAMAGES

2. The Northern District of California is an appropriate venue under 28 U.S.C. Section 1391(b)(2) because it is where the event giving rise to this claim occurred.

## II. PLAINTIFF

3. Plaintiff Lenzo Seemster is and was at all times mentioned herein a Prisoner of the State of California in the custody of the California Department of Corrections and Rehabilitation. He is currently confined in CSP - Sacramento in Redress California.

## III. DEFENDANT

4. Defendant Will Baptista is a Correctional Officer of the California Department of Corrections and Rehabilitation who at all times mentioned in this complaint held the rank of Correctional Officer and was assigned to Pelican Bay State Prison.

## IV. FACTS

5. While housed at the Psychiatric Services Unit (PSU) Pelican Bay State Prison on September 3rd 2012 at approximately 8:30 PM Plaintiff Lenzo Seemster received his medication from medication nurse Lenhart and then asked her if she could also take his blood pressure, because he had been feeling light headed and it may be due to his hypertension. Nurse Lenhart said that she would after she finished with her med. pass.

6. Approximately (5) minutes later defendant Baptista approached Plaintiff Seemster's cell door and asked him if he wanted to get his blood pressure checked. Plaintiff replied yes. Defendant Baptista then ordered him to turn around and submit to handcuffs.

1 Plaintiff complied. Defendant Baptista placed him in hand cuffs via  
 2 the tray slot then opened the cell door and ordered Plaintiff Lenzo Seamster  
 3 to get on his knees and submit to leg restraints which was out of the  
 4 ordinary being that Plaintiff Lenzo Seamster has been cleared by  
 5 the institutional classification committee (ICC) of leg restraints.

6  
 7 7. Plaintiff explained to defendant Will Baptista that he had been cleared  
 8 of leg restraints by ICC. Defendant Will Baptista responded by saying "I don't  
 9 care what ICC cleared you of ICC is not here im here and if you want your  
 10 blood pressure checked you have to submit to leg restraints."

11  
 12 8. Plaintiff Lenzo Seamster replied "I have not done anything wrong why do  
 13 I need shackles". Defendant Baptista responded "do you want your blood pressure  
 14 checked, or not" Plaintiff replied yes and got on his knees and submitted to the  
 15 leg restraints.

16  
 17 9. Now to explain ICC position when concerning leg restraints: All  
 18 prisoners must submit to leg restraints until they are seen by ICC and  
 19 cleared. Basically ICC has to check the central file to see have the prisoner  
 20 been assaultive, or have an extensive history of assaultive behavior.

21  
 22 10. Now if the prisoner have been currently assaultive, or have an extensive  
 23 history of assaultive behavior then ICC might elect to keep the prisoner in  
 24 leg restraints and place a sign above the prisoners cell door to confirm ICC  
 25 decision.

26  
 27 11. Now Plaintiff Lenzo Seamster is a non-violent prisoner and have never in

1 the 19 years of his incarceration of his incarceration attacked a correctional officer  
2 or another prisoner. therefore ICC have never in the 19 years of Plaintiff LENZO  
3 Seamster's elected to place him on leg restraints.

4  
5 12. Now as defendant Will Baptista escorted Plaintiff LENZO Seamster down the  
6 stairs not only was he squeezing his arm very tight he was also walking him very  
7 fast which was very painful due to the leg restraints and it seems as though he  
8 was trying to trip Plaintiff LENZO Seamster down the stairs.

9  
10 13. Plaintiff LENZO Seamster did not respond to defendant Will Baptista's  
11 aggression by saying anything, or making any sudden moves. because defendant  
12 Will Baptista is well known for brutally attacking prisoners/patients in the  
13 Psychiatric Services unit (PSU) while they are in handcuffs and shackles.

14  
15 14. Now once down the stairs Plaintiff was escorted into the Sallyport where  
16 Nurse Lenhart was waiting to take his blood pressure. Now as Plaintiff sit down  
17 to get his blood pressure taken wondering why defendant Will Baptista was  
18 being so aggressive with him. because they had had no problems at all up until  
19 that point.

20  
21 15. Now after Nurse Lenhart took Plaintiff LENZO Seamster's blood pressure  
22 defendant Will Baptista escorted Plaintiff back up the stairs to his cell and told  
23 him to face the wall Plaintiff complied which is when defendant Will Baptista  
24 slammed Plaintiff LENZO Seamster's head into the wall briefly knocking  
25 him unconscious and bringing him to his knees. which caused immediate  
26 swelling on the forehead of Plaintiff LENZO Seamster.

27 16. Defendant Will Baptista then ordered Plaintiff LENZO Seamster to crawl  
28

1 On his knees into his cell. Once inside defendant Will Baptista instructed  
 2 Plaintiff Lenzo Seamster "not to move a muscle if he knew what was good for  
 3 him". Plaintiff Lenzo Seamster complied. Defendant Will Baptista then bent  
 4 down and removed the leg restraints, and then backed out of the cell as the  
 5 cell door shut. Plaintiff Lenzo Seamster stood up. Defendant Will Baptista  
 6 then ordered Plaintiff to stick his arms through the tray slot so that "he"  
 7 defendant Will Baptista could remove the handcuffs.

8  
 9 17. Now once the handcuffs were removed Plaintiff Lenzo Seamster turned  
 10 around feeling the lump on his forehead getting bigger told defendant Will  
 11 Baptista that he needs Medical attention defendant Will Baptista then smiled  
 12 and replied "you jailhouse lawyers should learn to mind your own business,"  
 13 And then walked away from Plaintiff's Lenzo Seamster's cell door.

14  
 15 18. Plaintiff Lenzo Seamster then began to kick the cell door as defendant  
 16 Will Baptista was walking away, screaming that he needs Medical attention  
 17 to no avail.

18  
 19 19. Plaintiff Lenzo Seamster then wet a towel with cold water layed on  
 20 his bunk, and placed it on his forehead. Realizing that he had just brutally  
 21 attacked because he had been helping several prisoners file grievances and  
 22 do legal work on defendant Will Baptista.

23  
 24 20. Also during this incident there was another correctional officer with  
 25 defendant Will Baptista. Nevertheless the Plaintiff was so focused on  
 26 defendant Will Baptista because of his aggression that he can not remember who the  
 27 other correctional officer was.

21. Now on the morning of September 4<sup>th</sup> 2012 Plaintiff Lenzo Seemster had an appointment with his Psychologist Dr. Patterson as Plaintiff entered Dr. Patterson's office Dr. Patterson notice the swelling on the Plaintiff's forehead and asked him what happen. The Plaintiff told Dr. Patterson that he had been attacked by defendant Will Baptista for helping other Prisoner's file grievances/complaints against him for brutally attacking them. Plaintiff Lenzo Seemster then told Dr. Patterson that he needs medical attention and that he would like to file a complaint on defendant Will Baptista for excessive use of force.

22. Dr. Patterson then called Dr. Paul Hoffercker on the Phone. Dr. Paul Hoffercker was just a couple doors down in another interview room so he came right over. Dr. Patterson was fairly new to the facility which is why he called Dr. Paul Hoffercker to assist him in this matter.

23. Now Dr. Patterson and the Plaintiff began to explain to Dr. Paul Hoffercker the details of the situation, and Dr. Paul Hoffercker replied "I'm very familiar with c/o Baptista and his brutality toward (P's U) inmates there have been numerous situation involving this same correctional officer.

24. Dr. Paul Hoffercker then explained to Dr. Patterson what need to be done to get the complaint filed and report the incident.

25. Dr. Patterson then exited the office and went to go report the incident to defendant Will Baptista's Supervisor's he afterwards returned to the office where Plaintiff Lenzo Seemster awaited with a complaint form accompanied by Nurse Betty Vigil, and MPIMSSOG EVAMFI LPT.

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26. Plaintiff Lenzo Seemster filed a complaint against defendant Will Baptista for excessive use of force. and Nurse Betty Vigil conducted a 7a19 injury report in assistance with M. Elyamfi.

27. As Plaintiff Lenzo Seemster completed the complaint against defendant Will Baptista Psych-Tech Rita Snyder was passing by Plaintiff call Psych-Tech Rita Snyder to the interview room and notified her that he might miss group therapy today due to being attacked by defendant Will Baptista. Psych-Tech Rita Snyder then asked the Plaintiff "did % Baptista cause that injury to your forehead?" Plaintiff Lenzo Seemster replied yes he did. Psych-Tech Rita Snyder responded by filing an incident report with defendant Will Baptista's Supervisor's.

28. It was during this time that Plaintiff Lenzo Seemster learned that defendant Will Baptista after brutally attacking (him/The Plaintiff) did not even file an incident report which is Protocol. all Correctional Officers must file an incident report in such case's

The Second line of line 28 should read, defendant Will Baptista after brutally attacking (him/The Plaintiff) defendant Will Baptista did not even file an incident report

29. Now once defendant Will Baptista returned back to the facility from his regular days off and learned that Plaintiff Lenzo Seemster filed a complaint on him for excessive use of force he immediately retaliated by filing a fraudulent rule violation report on Plaintiff Lenzo Seemster for the specific Acts:  
Threat of Force/Violence against a Public Official Log# P12-09-0005 Dated:

1 9-6-2012 Plaintiff Lenzo Seamster then asked to speak with Dr. Patterson  
2 and Dr. Paul Hoffercker so that he might explain what had occurred.

3  
4 30. Now upon the arrival of Dr. Patterson and Dr. Paul Hoffercker Plaintiff Lenzo  
5 Seamster ~~and~~ told them about the retaliation which also consist of defendant  
6 Will Baptista refusing to feed the plaintiff Dr. Paul Hoffercker suggested that  
7 Dr. Patterson place Plaintiff Lenzo Seamster on suicide watch to remove him  
8 from the situation, because Dr. Paul Hoffercker felt that Plaintiff Lenzo  
9 Seamster's life was in danger not only indangered ~~due~~ to defendant Will  
10 Baptista, but also ~~due~~ to Seamster's suicidal history. Defendant Will  
11 Baptista Pressure on the Plaintiff who has Mental Health issues was  
12 most certainly enough to set him off, Plus defendant Will Baptista had no  
13 excess to Plaintiff Lenzo Seamster while on suicide watch, nevertheless  
14 on 9-23-12 Plaintiff Lenzo Seamster attempted suicide by hanging himself.

15  
16 31. Form suicide watch doctors changed Plaintiff Seamster's level of  
17 care in order to get him to another yard and eventually out of the facility  
18 once the plaintiff recovered from the suicide attempt wherein plaintiff  
19 sustained very serious injuries from the attempt.

20  
21 32. A few months later Plaintiff Lenzo Seamster was transferred from  
22 Pelican Bay State Prison to the California State Prison - Sacramento for  
23 his safety.

## 24 25 V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

26  
27 33. Plaintiff Lenzo Seamster used the Prisoner grievance Procedure  
28



1 available at Pelican Bay State Prison to try and solve the Problem. on  
 2 September 4<sup>th</sup> 2012 Plaintiff Lenzo Seamster Presented the facts relating  
 3 to this complaint. On November 14<sup>th</sup> 2012 Plaintiff Lenzo Seamster  
 4 was sent a response from the OFFICE OF APPEALS which is the highest  
 5 and final level of review saying that the grievance has been denied.  
 6 Grievance/APPEAL log # PBSP-12-02815

## 8 VI. CLAIM FOR RELIEF

9  
 10 (For violations of the eighth Amendment under color of State law, Section 1983)

11  
 12 34. Plaintiff reallege and incorporate herein by reference each of the allegations  
 13 contained in the preceding Paragraphs 1-33 of this complaint.

14  
 15 35. The use's of excessive force violated Plaintiff Seamster's rights and  
 16 constituted cruel and unusual Punishment under the eighth Amendment to  
 17 the United States Constitution.

18  
 19 36. As a direct and Proximate result of defendant Will Baptista's conduct in  
 20 violation of Plaintiff's eighth Amendment rights as set forth above, Plaintiff  
 21 has suffered serious harm, pain, and emotional distress.

22  
 23 37. Defendant Will Baptista's excessive use's of force against Plaintiff  
 24 Seamster was maliciously and sadistically carried out for the very purpose  
 25 of causing Plaintiff Lenzo Seamster harm.

26  
 27 38. Defendant's actions were motivated by evil motive and intent with a disregard  
 28 for Plaintiff's health and safety and federally protecte rights.

VII. PRAYER FOR RELIEF

WHEREFORE Plaintiff respectfully prays that this court enter judgement granting Plaintiff:

39. A declaration that the acts and omissions described herein violated Plaintiff's rights under the Constitution and laws of the United States.

40. A Preliminary and Permanent injunction ordering defendant Will Baptista to anger management and random drug testing, and the dismissal of the retaliatory rule violation report log # P12-09-0005 for the specific act of: Threat of Force/Violence against a Public Official dated 9-6-2012

41. Compensatory damages in the amount of \$40,000 against defendant.

42. Punitive damages in the amount of \$40,000 against defendant.

43. A Jury trial on all issues triable by Jury Proper and equitable

44. Any additional relief this court deems just

Date: 1-16-14

Respectfully Submitted

Lenzo Semster H-64914

CSP - Sacramento

PO Box 290066

Represd CA, 95671

1 VERIFICATION

2  
3 I have read the foregoing complaint and hereby verify that the matters  
4 alleged therein are true, except as to matters alleged on information  
5 and belief and as to those I believe them to be true.

6 I certify under Penalty of Perjury that the foregoing is true and correct.  
7

8 executed at Represd. California on  
9 Lenzo Seamster  
10 Lenzo Seamster  
11

12 DEMAND FOR JURY TRIAL

13  
14 Plaintiff hereby demands a jury trial.  
15

16 Dated: 1-16-14

Respectfully Submitted  
Lenzo Seamster

17  
18  
19 By: Lenzo Seamster  
20 Lenzo Seamster  
21 Pro se  
22  
23  
24  
25  
26  
27  
28

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Lenzo Seamster</b> <b>H-64914</b> TELEPHONE NO.: ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: <b>450 GOLDEN GATE AVENUE</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>SAN FRANCISCO, CALIFORNIA 94102</b> BRANCH NAME: <b>UNITED STATES DISTRICT COURT, NORTHERN DISTRICT</b>		FOR COURT USE ONLY           
CASE NAME: <b>Seamster v. Baptista</b>		CASE NUMBER:  JUDGE:  DEPT:
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input checked="" type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary   b. ☒ nonmonetary; declaratory or injunctive relief   c. ☐ punitive
4. Number of causes of action (specify):
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date:

**Lenzo Seamster**  
 (TYPE OR PRINT NAME)

**Lenzo Seamster**  
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

**PROOF OF SERVICE**  
**(C.C.P §2015.5, 28 U.S.C. 1745)**

I, Lenzo Seamster, am over the age of eighteen (18) years of age, and I (am) (am not) a party to the within cause of action. My address is:

Lenzo Seamster H-64914  
CSP-Sacramento, AI-208  
PO Box 290066  
Repres, CA 95671

On, \_\_\_\_\_, \_\_\_\_\_, I served the following documents:

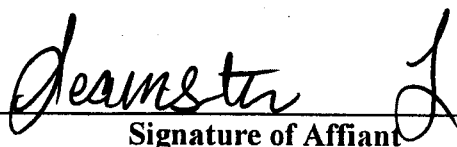
1. Act 42 U.S.C. §1983 "2nd" SUMMONS IN A CIVIL ACTION
2. PRISONER'S APPLICATION TO PROCEED IN FORMA PAUPERIS
3. CERTIFICATE OF FUNDS IN PRISONER'S ACCOUNT
4. MOTION FOR APPOINTMENT OF COUNSEL
5. CIVIL CASE COVER SHEET

on the below named individuals by depositing true and correct copies thereof in the United States mail in Represa, California, with postage prepaid thereon, addressed as follows:

- |  |   |
|--|---|
| 1. <u>UNITED STATES DISTRICT COURT</u><br><u>NORTHER DISTRICT OF</u><br><u>CALIFORNIA</u><br><u>450 GOLDEN GATE AVE</u><br><u>SAN FRANCISCO, CA.</u><br><u>94102</u> | 2. _____<br>_____<br>_____<br>_____<br>_____<br>_____ |
|--|---|

I have read the above statements and declare under the penalty of perjury of the laws of the state of California that he forging is true and correct.

Executed this 31 day of JANUARY, 2014, at California State Prison-Sacramento, Represa California.

  
Signature of Affiant